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Director's Office
Group 3700

: DECISION DISMISSING
: PETITION
: 37 CFR 1.181

In re Application of
SAKURADA ET AL.
Appl. No.: 09/980,623
Filed: December 05, 2001

This is a decision on petitioner's renewed request filed August 20, 2003 and resubmitted January 14, 2004, requesting withdrawal of the holding of abandonment (mailed February 7, 2003) of the above-identified application. Petitioner alleges non-receipt of the Office communication mailed on July 26, 2002 based on the Office mailing the communication to the wrong address. The petition is considered pursuant to 37 CFR 1.181, and no fee is required for this petition.

The petition is dismissed.

A review of the record indicates that one correspondence address was indicated on the declaration and a different address was indicated on the transmittal letter. Both are clearly identified as correspondence addresses. MPEP 403 states, in part:

"Where more than one correspondence address is specified, the Office will determine which one to establish as the correspondence address. This is intended to cover the situation where an application is submitted with multiple addresses, such as one correspondence address being given in the application transmittal letter, and a different one in an accompanying 37 CFR 1.63 oath or declaration, or other similar situations. The determination of which of the correspondence addresses to use will be made on a case-by-case basis, considering such factors as the earliest correspondence address submitted, and the first listed correspondence address if conflicting addresses appear in the same declaration."

In the instant case, the Office made the determination that the correspondence address listed in the declaration would be the correspondence address. The Office communication was mailed to the proper correspondence address of record on July 26, 2002. Applicant filed a subsequent change of address on November 18, 2002 changing the address of record to the address listed on the transmittal letter. Therefore, the non-receipt of the Office correspondence mailed on July 26, 2002 was due to applicant not timely filing a change of address.

Petitioners may file a renewed petition, without fee, addressing the points raised above. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extensions of time under 37 CFR 1.136(a) are permitted. Petitioner may wish to consider filing a petition to revive under 37 CFR 1.137.



Richard A. Bertsch, Director
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